

**Resolution Agreement**  
**Minot State University**  
**OCR Complaint # 05-14-2061**

Minot State University (University) enters into this Resolution Agreement (Agreement) with the U.S. Department of Education, Office for Civil Rights (OCR), to resolve the above-referenced complaint and to ensure compliance with Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681-1688, and its implementing regulation at 34 C.F.R. Part 106.

The University voluntarily enters into this agreement but does not admit that it violated Title IX or its implementing regulations.

OCR recognizes that the University has undertaken ongoing and proactive efforts to enhance the effectiveness of its policies and procedures, assess and expand the scope of its resources, and expand its educational and programming initiatives relating to Title IX. These efforts include: developing new and more detailed Title IX policies and procedures; creating a Title IX office and appointing a full-time Title IX coordinator, deputy coordinators, and investigators; creating Title IX training programs and offering them to the University community; providing annual training to employees with Title IX duties; signing a memorandum of understanding with the Minot Police Department; and issuing a notice of nondiscrimination on the University's website.

The University agrees to the following to ensure that it will promptly and equitably respond to all incidents of sexual and gender-based harassment, assault and violence of which the University has notice (including incidents that the University knew or reasonably should have known about); take prompt and effective steps to end the sexual and gender-based harassment, assault and violence; eliminate any hostile environment; prevent its recurrence; and, as appropriate, remedy its effects on the complainant<sup>1</sup> and others.

**Equity Consultant**

1. The University will retain an Equity Consultant, subject to OCR's review and approval of the selection, with expertise in all areas of compliance with Title IX. The Equity Consultant will work with designated University employees with expertise in Title IX and in the prevention of sexual harassment and sexual violence on college campuses and training in higher education. The Equity Consultant may be selected from the University's current staff, if the person has the required expertise. The Equity Consultant will:

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<sup>1</sup> The term "complainant" used throughout this Agreement refers to an individual who is the subject of alleged sex discrimination, regardless of how the report comes to the attention of the University, or someone who has made a report of sex discrimination to the University.

- A. Develop and provide the mandatory sexual harassment and sexual violence training required by Action 7 below;
- B. Provide guidance to the University with respect to the types of information sought in periodic climate assessments, as required by Action Item 12 below; and,
- C. Make recommendations to the University regarding its sexual harassment and sexual violence policies, procedures, and practices based on a variety of sources of information including the University's response to Title IX complaints and the results of the climate assessments.

**REPORTING REQUIREMENT:** By June 30, 2016, the University will submit to OCR for review and approval, the name and the credentials of the Equity Consultant. Within 15 days of receiving approval of the selection of the Equity Consultant, the University will provide OCR with documentation demonstrating implementation of Action Item #1, including the name and credentials of the consultant and the proposed contract between the University and the consultant.

#### **Public Anti-Harassment Statement**

- 2. No later than 30 days after receipt of OCR's approval, the University President will issue a statement to the University community, including University students, employees, and third parties associated with the University, which will be widely published, including in the University's newspaper and on the University's website, stating that University policy prohibits sex discrimination, including sexual and gender-based harassment, assault, and violence. The statement will encourage any student, employee or third party who believes he or she has been subjected to sex discrimination to report the incident(s) to the University, and note the University's commitment to conducting a prompt and equitable investigation and immediately and appropriately addressing any violation of the University's policies. The statement will inform University community members of how to report allegations of sex discrimination, including sexual and gender-based harassment, assault and violence; will explain the role of the Title IX Coordinator and Deputy Title IX Coordinators; will provide contact information for the Title IX Coordinator and Deputy Title IX Coordinators; and will discuss the interim measures and protections against retaliation and harassment available to individuals reporting such incidents. The statement will inform all members of the University community of the University's responsibility to take prompt and effective steps to end the sexual and gender-based harassment, assault and violence across the University; eliminate the hostile environment; prevent its recurrence; and, as appropriate, remedy its effects. The statement will encourage students and staff to work together to prevent acts of sex discrimination of any kind; and will highlight resources available to individuals who have been subjected to sex discrimination, including sexual and gender-based harassment, assault and violence. The statement will explain that the University will complete investigations in a prompt and equitable manner; and that, after the completion of the investigation,

students and employees found to have engaged in acts of sex discrimination, including sexual and gender-based harassment, assault, and violence, will be promptly disciplined. The statement will make clear that such discipline may include, if circumstances warrant, suspension, expulsion or termination.

**REPORTING REQUIREMENT:** By August 1, 2016, the University will provide to OCR a copy of the proposed statement for review and approval. Within thirty (30) calendar days of receipt of OCR's approval, the University will submit to OCR documentation demonstrating that the anti-harassment statement has been widely published; including copies of the University's newspaper and relevant pages of its website where the statement appeared. Should the University require more than 30 days due to periodic printing of University materials, inserts may be used pending reprinting of those publications.

#### **Notice of Nondiscrimination**

3. Within thirty (30) calendar days of receipt of OCR's approval, the University will amend its notice of nondiscrimination to ensure that it meets the requirements of the regulation implementing Title IX, including listing the name, title and contact information (including phone number, office address and e-mail) for its Title IX Coordinator; and stating that inquiries concerning the application of Title IX may be referred to the Title IX Coordinator or to OCR. The University will broadly publish its revised notice of nondiscrimination, including on the University's website, and in its promotional materials, student and employee handbooks, application forms and its other published materials in accordance with 34 C.F.R. § 106.8(a).

**REPORTING REQUIREMENT:** By August 1, 2016, the University will provide to OCR for review and approval a copy of its amended notice of nondiscrimination. Within 30 days of OCR's approval of the notice of nondiscrimination, the University will provide to OCR a list of the titles of the publications in which the notice of nondiscrimination appears (e.g. University catalog, website, student handbook) and a copy of at least one publication disseminated to the campus community, or printouts or a link to an on-line publication containing the notice. Should the University require more than 30 days due to periodic printing of University materials, inserts may be used pending reprinting of those publications.

#### **Title IX Policies and Grievance Procedures**

4. The University maintains three sets of policies that govern or relate to sexual assault. They are:
  - A comprehensive Title IX policy adopted in March 2016 that can be found at <http://www.minotstateu.edu/title9/campus-policy.shtml>;
  - Provisions of the 2015-2016 Handbook, namely the Student Conduct Policy (pg. 50) and Policy on Sexual Assault (pg. 46) and Harassment (pg. 47); and
  - HR Policy 1.1, Harassment located at [www.minotstateu.edu/hr/policy\\_manual.shtml](http://www.minotstateu.edu/hr/policy_manual.shtml)

Some of the provisions below are already included in one or more of the University's policy and procedure documents, but not consistently. With regard to such provisions, the University will retain them in the documents that currently exist and will revise all related policies and procedures and other materials to ensure that these are consistent. Recommendations made by the Equity Consultant will also be incorporated into the revisions of the policies and procedures and related documents.

The revised policies, procedures, and related documents will include, at a minimum:

- a. notice that the procedures apply to complaints alleging all forms of sex discrimination (including sexual and gender-based harassment, assault and violence) against employees, students, and third parties;
- b. notice of the procedures and how to file a complaint that is easily understood, easily located and widely distributed; such notice must include the contact information (name or title, office address, email address and telephone number) for the individual with whom complaints may be filed;
- c. the name, title and contact information (phone number, office address and email address) for the Title IX Coordinator and Deputy Title IX Coordinators and notice regarding the role and duties of the Title IX Coordinator and Deputy Title IX Coordinators in the processing of complaints of sex discrimination, including sexual and gender-based harassment, assault and violence;
- d. provisions for the prompt, adequate, reliable and impartial investigation of complaints, including the opportunity for the parties to present witnesses and other evidence and to have similar and timely access to information being considered in the grievance process;
- e. designated and reasonably prompt timeframes for the major stages of the grievance process, including provisions for extensions of time, that apply equally to the parties;
- f. written notice of the outcome of the complaint, and any appeals, to all parties, including the respondent, the alleged victim and, if different, the complainant;
- g. an assurance that the University will take prompt and effective steps to end the sexual or gender-based harassment, assault and sexual or violence; eliminate any hostile environment; prevent its recurrence; and remedy the discriminatory effects on the victim and others as appropriate;
- h. where the procedures allow the parties to have a lawyer or other representative at a meeting or proceeding, a statement that both parties will have an equal opportunity to have lawyers/representatives present and that any restrictions on the lawyers/representatives' ability to speak or otherwise participate will be

applied equally to both parties;

- i. notice of the opportunity for both parties to appeal the findings, if the procedures allow appeals; and for both parties to participate equally in the appeal process, even if the party has not herself or himself filed an appeal;
- j. appropriate definitions and examples of what types of actions may constitute sex discrimination (including sexual and gender-based harassment, assault and violence), including a clear and consistent definition of what does and does not constitute consent to sexual conduct;
- k. a statement clarifying that the University's policy and procedures for addressing complaints of sex discrimination, including sexual and gender-based harassment, assault and violence, apply to all University programs and activities; including those conducted off-campus and in the University's graduate schools;
- l. an explicit statement that where relevant, if the off-campus misconduct did not occur in the context of a University program or activity, the University will consider the effects of off-campus conduct when evaluating whether there is a hostile environment on campus or in an off-campus education program or activity;
- m. a statement that all employees, other than non-professional counselors or advocates and those employees legally regarded as confidential resources, are expected to promptly report to the University sexual and gender-based harassment, assault and violence that they observe or learn about;
- n. a provision explaining that the complainant has the right to decline to participate in an investigation, appear in a proceeding with the respondent present, or otherwise confront the respondent during the grievance process, including during any hearings or appeals;
- o. provisions prohibiting the parties from personally cross-examining each other during the grievance process, including during any hearings or appeals;
- p. a statement that the University has an obligation to promptly take steps to investigate or otherwise determine what occurred and then to take appropriate steps to resolve the complaint when it knows or reasonably should know about possible discrimination (from any source); regardless of whether the complainant declines to participate in the process. It will also contain a statement that the University will seek to balance a complainant's request for anonymity or not to participate in an investigation with its broader obligation to campus safety and identify the employee responsible for evaluating requests for confidentiality; and that the University will respond to complaints, reports, or information about

incidents of sex discrimination to stop prohibited sex discrimination, eliminate any hostile environment, take steps to prevent the recurrence of the sex discrimination, and address any effects on campus or in the context of any University programs and activities regardless of location;

- q. provisions ensuring that the parties, including the complainant and the respondent, are afforded regular updates regarding the status of the investigation;
- r. if the policy permits the University to act as the complainant for purposes of hearings and appeals, a provision ensuring that the actual complainant is permitted to provide input into whether the University appeals a decision under the grievance process;
- s. provisions clarifying that any informal resolution process set forth in the procedures will only be used if the parties voluntarily agree to do so; that the complainant will not be required to resolve the problem directly with the respondent; and a statement that there will be instances when the informal resolution process is inappropriate (e.g., mediation is prohibited in cases of sexual assault, and in cases involving a student complaining of sexual harassment against an employee in a position of authority over the student); and that both parties must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process;
- t. a statement that the preponderance of the evidence standard will be used for investigating alleged sex discrimination, including sexual and gender-based harassment, assault and violence complaints and making findings related to the allegations;
- u. a procedure for promptly and effectively notifying both complainants and respondents of the initiation of an investigation; the potential policy violation(s) at issue; the right to participate in the investigation; the timeframe for responding; and that the investigation may proceed without the participation of either party;
- v. a provision notifying complainants that they may pursue a complaint with the University and the police simultaneously; that the University may need to briefly suspend the fact-finding aspect of a Title IX investigation at the request of law enforcement while the law enforcement agency is in the process of gathering evidence; that the University will maintain regular contact with law enforcement to determine when it may begin its investigation; that the University will promptly resume its investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process, or sooner if the University determines that the evidence gathering process will be lengthy or delayed; and that the University will not delay its investigation until the ultimate outcome of the criminal investigation;

- w. a provision indicating that the University will implement appropriate interim measures during any law enforcement agency's investigative period when the University has temporarily deferred its investigation, to assist and protect the safety of the complainant(s) and the campus community and to prevent retaliation;
- x. a statement that the University will implement appropriate interim measures and will notify complainants, in writing, that interim measures are available during the University's investigation, and during any student conduct process, including appeals, to protect and support the complainant (such as University-enforced no contact orders, changes in class schedules, counseling, other mental health services, academic assistance, the ability to retake or withdraw from courses without penalty, etc.); where and how to request such interim measures; that the University will take steps to ensure that appropriate interim measures are taken or provided; and that the University will take steps to ensure, where possible and as supported by the available information, that such interim measures minimize the burden on the complainant;
- y. with respect to confidentiality of the parties:
  - i. an assurance that the complaint and investigation will be kept confidential to the extent possible;
  - ii. a statement that if the complainant asks that his or her name not be disclosed to the respondent or that no investigation be pursued, it may limit the scope of the University's response;
  - iii. a statement that Title IX prohibits retaliation, and that the University will take steps to prevent retaliation and will take strong responsive actions if retaliation occurs;
  - iv. a statement that if the complainant continues to ask that his or her name not be disclosed, the University will take all reasonable steps to investigate and respond to the complaint consistent with the request as long as doing so does not prevent the University from responding effectively to the harassment and preventing the harassment of others;
  - v. a statement that the University will evaluate any confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all members of the University community; and a statement that the factors that the University may consider in this regard include the seriousness of the alleged harassment, the age of the individual harassed, whether there have been other complaints or reports of harassment against the alleged harasser, and the rights of the accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result;

- z. an assurance that the University will not allow conflicts of interest (real or reasonably perceived) by those investigating or adjudicating complaints;
- aa. a statement that possible disciplinary sanctions that might result from a finding of sexual harassment, sexual assault or sexual violence may include suspension, expulsion or termination; and a statement of the types of remedies that the University can provide to complainants and others as a result of sexual and gender-based harassment, assault or violence;
- bb. a statement that retaliation and retaliatory harassment is prohibited against any individual who files a sex discrimination complaint with the University or participates in a complaint investigation in any way; and a clear explanation of how retaliation or retaliatory harassment can be reported to the University;
- cc. a statement that in cases where sexual or gender-based harassment, assault, or sexual or violence is found to have occurred, the University will determine appropriate, enforceable sanctions reasonably calculated to stop the harassment and prevent its recurrence; and the University will not negotiate a settlement with the employee or student for lesser actions that would not be reasonably calculated to end the sexual and gender-based harassment, assault and violence; eliminate the hostile environment; prevent its recurrence; and remedy the discriminatory effects on the complainant and others as appropriate.

#### **REPORTING REQUIREMENT:**

By August 1, 2016, the University will provide for OCR's review a draft of the revised procedures and any additional policies or informational documents that address complaints alleging discrimination on the basis of sex (including sexual and gender-based harassment, assault, and violence). OCR will review these grievance procedures and related materials in order to ensure that these comply with Title IX and this Agreement.

Within 45 calendar days of OCR's confirmation that the revised policies and procedures, and any related materials used by the University, conform with Title IX and this Agreement, the Title IX Coordinator will certify to OCR that the University has formally adopted the revised documents; updated all printed publications and on-line publications with the revised documents (inserts may be used pending reprinting of these publications); and electronically disseminated the revised grievance procedures to students and employees. This documentation will include evidence of the electronic dissemination of the revised grievance procedures to students and employees, a list of the titles of the publications in which the information appears (e.g. University catalog, website, student handbook) as well as a copy of any such publications or a link to an on-line publication containing the revised grievance procedures; or if not yet finalized, a copy of the insert for printed publications. The University will also provide documentation of how the revised procedures were distributed; and that University police, the Title IX Coordinator, Title IX staff, students, employee union leaders and



other appropriate University community members have access to the procedures and know where copies may be obtained.

#### **Documenting Complaints**

5. By August 1, 2016, the University will develop and submit to OCR for its review and approval a procedure to document each incident or complaint of discrimination on the basis of sex (including sexual or gender-based harassment, assault and sexual violence) received by the University, whether formal or informal, written or verbal, which will require, at a minimum:
  - a. documentation describing the incident or complaint;
  - b. a record of when and how the incident or complaint was brought to the attention of the University;
  - c. documentation regarding any investigation conducted by the University, including: witnesses interviewed, documents reviewed, transcripts, recordings and other information considered, e.g., Advocate reports, University police reports, etc., related to the investigation;
  - d. documentation of all information reviewed by the adjudicator;
  - e. documentation describing the University's disposition of the complaint, which includes the date of the disposition, the basis for the disposition and a description of any personal sanctions imposed, systemic remedies applied and other University action taken;
  - f. documentation of the dates that the University updated the parties regarding the status of the investigation;
  - g. documentation that the University promptly provided the parties written copies of any decisions, including any appeals, regarding the complaint, even in cases where the University serves as the complainant for proceedings;
  - h. documentation regarding any contacts with law enforcement regarding each incident or complaint, and any actions taken by law enforcement, if known to the University;
  - i. documentation of any interim measures offered to the complainant pending the University's investigation; documentation of any interim measures used by the complainant during the investigative process; and documentation that the complainant was provided with notice of the University resources available and that the University took steps to ensure that these were provided, (e.g., University police, no contact orders, academic support, counseling, etc.);

- j. any other relevant official University records related to the case;
- k. documentation of any remedies provided to individuals found to have been subjected to sex discrimination (including sexual and gender-based harassment, assault and violence); and
- l. where sexual or gender-based harassment, assault or violence is found to have occurred, documentation that the University followed up with the complainant(s) to ensure the harassment has not recurred, and that the discriminatory effects of the harassment have been remedied.

**REPORTING REQUIREMENT:** By August 1, 2016, the University will submit the above-referenced procedure to OCR for its review and approval. Within 45 days of OCR's approval of the procedure, the University will adopt the procedure as part of its Title IX complaint processing procedures, distribute copies of the procedure, and provide training on the procedure to its Title IX Coordinator. Within 90 days of OCR's approval of the procedure, the University will provide OCR with information or documentation confirming that the procedure has been distributed, the Title IX Coordinator and other staff responsible for processing, investigating, and adjudicating complaints of sexual harassment, including sexual violence, have received training on the procedure, and the procedure is being used in the University's processing of Title IX complaints.

By June 30, 2016, and the same date in 2017 and 2018, the University will submit to OCR copies of all grievances filed with the University during the 2015-2016, 2016-2017, and 2017-2018 academic years, respectively, that allege sexual or gender-based harassment, assault or violence. Pursuant to this requirement, the University will provide to OCR, for review and approval, documentation related to the investigation of each complaint; such as witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, documentation regarding interim measures provided or offered, any final disposition letters, hearing records, disciplinary records, documentation regarding any appeals, and documentation regarding additional steps taken to stop harassment found to have occurred, prevent its recurrence and remedy its effects on complainants and others as appropriate. Incomplete files will be flagged for OCR and will be updated upon completion

#### **Memorandum of Understanding**

- 6. The University entered into an MOU with the Minot Police Department (MPD) on April 15, 2016. The University affirms that it will periodically review the terms of the MOU and engage in open dialogue with the MPD to improve communication and coordination and address the protocols and procedures for referring allegations of sexual assault and sexual violence, sharing information, and conducting contemporaneous investigations. Additionally, by June 30, 2016, the University will develop a written protocol between the University police and the University's Title IX Coordinator that outlines how the parties will promptly notify each other when either receives a complaint of sexual or gender-based harassment, assault or violence, and to what extent they will coordinate efforts on behalf of the University to promptly

and equitably respond; and how they will document those efforts, including all investigatory steps taken. The written protocol will designate individual contact person in both the MPD and the University to transmit and receive information about the case (e.g., that the MPD has completed its investigation, that the prosecutor has declined to prosecute, etc.).

**REPORTING REQUIREMENT:** By June 30, 2016, the University will provide OCR with a copy of any revisions to the MOU with MPD and the written protocol between the University Police and the University's Title IX Coordinator. By December 1, 2016, and the same date in 2017 and 2018, the University will submit to OCR documentation verifying that the MOU and protocol are being followed.

#### **Title IX Training for University Staff**

**Title IX Coordinator, Deputy Title IX Coordinators and Title IX investigators, Campus Safety and Security Officers, Members of the Student Welfare and University Affairs Committee (SWUAC) , Student Rights Committee (SRC), Vice President of Student Affairs, Athletic Coaches and Staff, Residence and Housing Services Staff (including Resident Assistants), and Others**

7. Within 45 calendar days of OCR's approval of the Title IX policies and procedures revised under Action Item 4 above, the University will begin providing annual, mandatory Title IX training to its Title IX Coordinator, Deputy Title IX Coordinators, Title IX investigators, Campus Safety and Security Officers, members of the SWUAC and SRC, the Vice President of Student Affairs, Athletic Coaches and Staff, Residence and Housing Services Staff, including resident assistants, and any other relevant individuals involved in the process. The training, at a minimum, will cover: the University's revised policies and grievance procedures; the role and duties of the Title IX Coordinator; how to recognize and appropriately address incidents and complaints under Title IX, including where and with whom to report such incidents; how to identify sex discrimination, sexual and gender-based harassment, assault and violence; the University's responsibilities under Title IX to address such allegations; confidentiality requirements; and information on the relevant resources available to victims. The training for Title IX Coordinators, Title IX investigators and Campus Safety and Security Officers will also include instruction on how to conduct and document adequate, reliable, and impartial Title IX investigations, including an emphasis on the complainant's right to pursue the University's process and the law enforcement process at the same time, as well as a reminder of the policy prohibiting retaliation and intimidation. It will also include instruction by a qualified individual regarding the impact of trauma due to sexual and gender-based harassment, assault and violence, and on how to interview and interact with complainants in a way that is trauma-informed, sensitive and respectful. The training will include a definition of consent for sexual conduct used by the University. The training will also inform attendees what to do to respond to additional incidents of alleged sexual harassment and retaliatory harassment that the University receives notice of during an investigation. The University will invite members of the MPD to observe the portion

of the training covering how to interview and interact with victims; however, OCR understands that the University has no authority to require outside law enforcement agencies to attend the training. During the training, the University will provide copies of its revised nondiscrimination notice and Title IX grievance procedures to all attendees, or refer them to their location within the publications they already possess or on the University's website.

#### **Other Faculty and Staff**

8. Within 45 calendar days of OCR's approval of the Title IX policies and procedures revised under Action Item 4 above, and biennially afterwards, the University will provide, in person or online, mandatory training to all current University faculty and staff, and within 30 days of his or her start date for all new employees, regarding recognizing and reporting incidents of sexual and gender-based harassment, assault and violence. The training, at a minimum, will cover: the role and duties of the Title IX Coordinator; how to identify sex discrimination, sexual and gender-based harassment, assault and violence; the University's revised Title IX policies and grievance procedures; how to appropriately address incidents and complaints under Title IX, including where and to whom to report such incidents; the University's responsibilities under Title IX to address such allegations; relevant resources available to victims; and the issues of confidentiality and retaliation. During the training, the University will provide copies of its nondiscrimination notice and Title IX grievance procedures to all attendees, or refer them to their location within the publications they already possess or on the University's website.

**REPORTING REQUIREMENTS:** Within 45 calendar days of OCR's approval of the Title IX policies and procedures revised under Action Item 4 above, the University will provide documentation to OCR demonstrating that training was provided by the University in accordance with Action Items 7 and 8 above. The documentation will include, at a minimum, the name(s) and credentials of the trainer(s); the date(s) and time(s) of the training(s); a description of each training; the type of audience; sign-in sheets for each session with the names and titles of those attending; and copies of any training materials distributed. The University will also provide documentation that it invited members of the MPD to the portion of the training that deals with interviewing and interacting with victims. By June 30, 2016, the University will provide documentation to OCR regarding any such training provided during the 2015-2016 academic year, including any training provided to new employees, again by June 30, 2017, for the 2016-2017 academic year, and again by June 30, 2018 for the 2017-2018 academic year.

#### **Staffing/Resources**

9. By June 30, 2016, December 31, 2016, and June 30, 2017, the University will conduct an assessment to determine whether it has sufficient staff to investigate and address Title IX complaints in a timely manner. The University will add staff as needed, such as Title IX investigators, Campus Safety and Security officers, members

for the SWUAC and SRC, administrative staff, and others as needed to avoid delays in the investigative and appeals process.

By June 30, 2016, December 31, 2016, and June 30, 2017, the University will assess the staffing levels in its sexual assault counseling program and add appropriately trained staff as needed to ensure that specialized counseling services are readily available to individuals who need them.

**REPORTING REQUIREMENTS:** By June 30, 2016, December 31, 2016, June 30, 2017, and June 30, 2018, the University will provide documentation to OCR demonstrating its completion of the assessments referenced above. The University will also provide information to OCR regarding its staffing levels for each of the categories listed above; and a list of individuals who were hired in response to each assessment, including each person's name, title, and the University office for which he or she works.

### **Student Information Sessions**

10. The University provides training on topics related to sexual and gender-based harassment, assault and violence to its new freshman and transfer students through orientation programs including "CONNECT" and other ongoing training programs and provides information on topics related to sexual and gender-based harassment, assault and violence online through the Keep U Safe website.

By September 15, 2016, the University will make annual training mandatory for all undergraduate and graduate students. The training will be revised, as necessary, based on recommendations of the Equity Consultant, and to include information regarding the role and duties of the Title IX Coordinator and Deputy Title IX Coordinators; the University's revised policies and procedures (once they have been approved by OCR); how to recognize incidents of sex discrimination (including sexual and gender-based harassment, assault and violence); the correlation between alcohol and other drug use and sexual assault; what does and does not constitute consent to sexual conduct; how and where to report incidents of sex discrimination, including sexual and gender-based harassment, assault and violence; the consequences for violating the University's policy against sex discrimination (including sexual and gender-based harassment, assault and violence); and resources available to students who have been subjected to sex discrimination (including sexual and gender-based harassment, assault and violence). To ensure that students comply with this requirement, the University will develop consequences for not completing the training, (e.g., students will be unable to register for classes until they have participated in the training.)

By November 30, 2016, the University will offer a series of in-person information sessions to students to make them aware of the University's prohibition against sex discrimination (including sexual and gender-based harassment, assault and violence); how to recognize such sex discrimination when it occurs; and how and with whom to report any incidents of sex discrimination (including sexual and gender-based harassment, assault and violence). This should include information regarding the role

and duties of the Title IX Coordinator. In addition, the sessions will cover the University's revised grievance procedures for Title IX complaints (once approved by OCR), as well as a general overview of Title IX, the rights it confers on students, the resources available to students who believe that they have been victims of sexual or gender-based harassment, assault and violence, and the existence of OCR and its authority to enforce Title IX. The sessions will specifically address the connection between abuse of alcohol or other drug use and sexual and gender-based harassment, assault and violence, and what does and does not constitute consent to sexual conduct; and will inform students about the availability of resources, including University provided counseling, academic assistance, no-contact orders, etc., to individuals who have been victims of sex discrimination (including sexual and gender-based harassment, assault and violence). These sessions may be provided as part of the existing annual student orientation for new and returning students, and existing annual residence orientation for students residing in University housing.

**REPORTING REQUIREMENT:** By December 15, 2016, the University will provide documentation to OCR demonstrating its compliance with Action Item 10 above, including a copy of the revised training; information or documentation demonstrating that annual training is mandatory for all students; and documentation regarding the consequences put in place for students who do not complete the training. The University will also provide documentation demonstrating that it held the information sessions referenced in Action Item 10, including a list of dates and times when the sessions were held; the names, titles, and qualifications of the individuals who presented at the informational sessions; and copies of any materials that were used or distributed at each informational session.

#### **Sexual Violence Advisory Committee**

11. By October 15, 2016, the University will create a committee (Sexual Violence Advisory Committee or "SVAC") comprised of representatives from the undergraduate and graduate student bodies, faculty, staff and appropriate administrative offices. The University will invite a wide cross section of the University community so that the membership reflects a diverse and representative set of student and employee groups. The SVAC will meet at least twice a semester during the regular academic year to identify strategies for ensuring that students understand their rights under Title IX, and how to report possible violations of Title IX, including complaints of sexual and gender-based harassment, assault and violence. Additionally, the SVAC will identify strategies for the prevention of sexual and gender-based harassment, assault and violence incidents, including outreach and educational activities, and will hold at least one public meeting each academic year to identify student concerns and to determine where and when harassment on the basis of sex has occurred, even if not reported to the University. SVAC's finalized recommendations will be made to the Title IX Coordinator annually, who will work with the University to review and implement the recommendations as appropriate.

**REPORTING REQUIREMENTS:** By June 30, 2017, the University will provide OCR with documentation that the SVAC has been formed in accordance with Action Item 11, including a list of names and titles of the members of the committee; the dates of any meetings; copies of any meeting minutes; a copy of the committee's recommended actions; and a detailed description of any strategies the committee developed to prevent incidents of sexual and gender-based harassment, assault and violence, including any outreach or educational activities implemented. Documentation will also include a copy of any written recommendations, or a narrative summary of any verbal recommendations, received from the students during the public meeting referenced in Action Item 11. By June 30, 2018, and June 30, 2019, the University will provide documentation to OCR regarding the 2017-2018 academic year, and the 2018-2019 academic year, respectively.

### Climate Checks

12. By March 31, 2017, and again during the 2017-2018 and 2018-2019 academic years, the University's Title IX Coordinator will conduct (with the support and assistance of SVAC referenced in Action Item 11, above and the Equity Consultant referenced in Action Item I, above) periodic assessments of the University climate to assess the effectiveness of steps taken pursuant to this Agreement, or otherwise by the University, to provide for a campus free of sex discrimination and harassment, in particular sexual assaults and sexual violence. The purpose of the climate checks is to, at a minimum, assess students' and employees' knowledge about what constitutes sex discrimination (including sexual and gender-based harassment, assault and violence); to gather information regarding their personal or observed experiences with sex discrimination while attending or working at the University; to assess their view of the current climate at the University regarding these issues and any potentially problematic areas on campus (e.g., dormitories, athletic facilities); to assess their knowledge and understanding of the University's Title IX policies and procedures and to whom to report incidents of sex discrimination (including sexual and gender-based harassment, assault and violence); and to obtain their suggestions for steps the University could take to effectively address these issues. A climate check can be conducted in many ways, including but not limited to, a survey distributed in-person or online, or a poll conducted in-person or online. In addition, the campus may organize an open forum information session for students and employees; and designated, publicized walk-in hours for campus community input. If the University opts to use a survey or poll, the University will submit the survey or poll to OCR for review and approval prior to its distribution. The University will use information gathered during these climate checks to inform future proactive steps taken by the University to provide for a safe educational and employment environment and compliance with Title IX. The University's Title IX Coordinator, with input from the Equity Consultant, will use the information and recommendations gathered by the climate check to then determine what additional actions are needed to address climate concerns.

**REPORTING REQUIREMENTS:** By January 1, 2017, the University will submit to OCR for review and approval a draft of the climate survey described in Action Item 12.

By March 31, 2017, the University will administer the climate check. By June 30, 2017, the University will provide documentation to OCR demonstrating implementation of Action Item 12, including a description of how, when, and by whom the climate check(s) were completed; copies of any student and employee written responses to surveys or narrative summaries of verbal responses; any written summaries or analysis prepared; summaries of other relevant information obtained; and documentation demonstrating the actions that the University plans to take in response to the information gathered during the climate checks. By June 30, 2018, and June 30, 2019, the University will provide OCR with the same documentation regarding assessments conducted and any responsive actions taken during the 2017-2018 academic year, and the 2018-2019 academic year, respectively.

### **Title IX Coordinator: Monitoring Program**

13. By June 30, 2017, the Title IX Coordinator will develop a monitoring program to assess the effectiveness of the University's overall Title IX anti-discrimination efforts. In developing the monitoring program, the University will take into consideration the recommendations and suggestions made by the Equity Consultant retained pursuant to Action Item 1 and SVAC created pursuant to Action Item 11 and the information gathered during the climate check described in Action Item 12. At a minimum, the Title IX Coordinator or a qualified designee will annually: review all formal and informal complaints of discrimination on the basis of sex (including sexual and gender-based harassment, assault and violence) received; review all information collected during the climate checks; consult with the SVAC; consult with the Equity Consultant; compile, evaluate, and analyze data collected, including a disaggregated assessment of whether the reported incidents of harassment have increased or decreased in number and severity and whether there are any particular locations, offices, or programs at the University where a sexually hostile climate might exist; and propose recommendations for improvement of the University's anti-harassment efforts and timelines for implementation of the recommendations.

**REPORTING REQUIREMENTS:** By June 30, 2017, the University will provide documentation to OCR of a proposed monitoring program. By June 30, 2018, and June 30, 2019, the University will provide documentation to OCR demonstrating that the Title IX Coordinator completed the annual reviews. This documentation will include information about the complaints received, the type of complaints (sexual discrimination, sexual harassment, sexual assault, etc.), any trends or patterns identified, a summary of information received from the Equity Consultant, the SVAC, and during climate checks, and any actions taken in response to the trends or patterns identified.

### **Complaint Review**

14. Within 60 days of receipt of OCR's approval of the University's revised grievance procedures, in accordance with its revised grievance procedures, the University will review the complaints and reports of sex discrimination (including sexual and gender-



based harassment, assault and violence) made from academic year 2011-2012 through 2014-2015, including any individual files OCR has identified in attached Appendix A, to determine whether the University investigated each complaint or report promptly and equitably, including but not limited to assessing whether:

- the investigation and any appeals were handled promptly;
- appropriate Title IX definitions and legal standards were applied, including but not limited to the preponderance of the evidence standard;
- appropriate interim relief was provided to protect the complainant from additional harassment or retaliation during the pendency of the investigation and to provide other support as needed, e.g., counseling and academic adjustments;
- both parties were given the right to provide evidence and identify witnesses;
- both parties were given written notice of the outcome (including any appeals);
- equal appeal rights were given to the complainant and the accused; and
- appropriate steps were taken to prevent the recurrence of sex discrimination (including sexual and gender-based harassment, assault and violence) against the complainant and other members of the University community, and to address any hostile environment created by the sex discrimination, including in cases where the complainant refused to cooperate but the University had sufficient information to investigate possible sex discrimination and prevent its reoccurrence.

The University will take appropriate action to address any problems it identifies regarding how these complaints were handled, including providing appropriate remedies that may still be available for the complainants in these cases, such as counseling or reimbursement for counseling; academic assistance or adjustments; tuition or housing reimbursements; or other appropriate relief. The University will also take steps to determine if any sexual or gender-based harassment may be ongoing as a result of the University's failure to properly address any of these complaints, and will take appropriate measures to address the sexual or gender-based harassment appropriately. The University is not expected to reinvestigate or rehear matters that have been processed through the University's student misconduct policy.

**REPORTING REQUIREMENTS:** Within 60 days of receipt of OCR's approval of the University's revised grievance procedures, the University will submit to OCR for review and approval the results of its review conducted pursuant to Action Item 14, specifically identifying any sex discrimination (including sexual and gender-based harassment, assault and violence) complaints or reports that were not handled promptly and equitably; all supporting materials relating to the University's review; and the University's planned action(s) to address any problems identified in the review. Within 45 days of OCR's

approval, the University will provide OCR with documentation that it has taken appropriate action to address any problems identified in its review.

#### **Maintenance of Other Data**

15. Effective immediately, the University agrees to maintain documents relating to complaints or other reports of sexual harassment of students, including the following:

- a) a copy of all written reports, and a narrative of all verbal reports, of incidents involving allegations of sexual harassment of any kind, including but not limited to sexual violence;
- b) a narrative of all actions taken in response to the reports by University personnel, including any written documentation;
- c) for files in which the complainant elects not to proceed with an investigation, documentation reflecting the University's process and rationale supporting its decision whether to proceed or not proceed with any action in response to the report despite the complainant's unwillingness to go forward and any action taken by the University;
- d) a copy of any and all disciplinary sanctions issued to students or employees for violations of the sexual harassment policies and procedures; and
- e) documentation, including a, fully detailing any interim measures afforded to complainants pending the completion of an investigation and, where sexual harassment is found to have occurred, documentation fully detailing all the steps, individual and systemic, the University took to stop the harassment, prevent its recurrence, eliminate any hostile environment, and remedy its discriminatory effects on the complainant and any others as appropriate.

**REPORTING REQUIREMENT:** By June 30, 2016, June 30, 2017, and June 30, 2018, the University will provide to OCR copies of the documentation referenced in this item for the just-completed school year.

#### **Individual Remedies**

16. By August 31, 2016, the University will make efforts to locate the current address or e-mail address for Student A; and offer, in writing, to have the Title IX Coordinator meet individually with Student A in person, via telephone, through correspondence, or through other means preferred by Student A regarding the University's incomplete investigation of her complaint allegations, if Student A elects to do so. The letter to Student A will acknowledge the University's incomplete investigation of her complaint, will promise to process her complaint pursuant to the revised policies and procedures identified in Action Item 4 and will provide her with a written notice of the outcome regarding her complaint, including steps taken by the University and the results of any appeals. The letter will explain that the University is revising its Title

IX policies and procedures to ensure that complaints of sex discrimination, including sexual and gender-based harassment, assault and violence are timely processed, that complainants are kept informed of the status of the investigation and any appeals, and that complainants found to have been sexually harassed are timely provided with remedies such as no contact orders, housing changes, academic assistance, and counseling to ensure their needs are addressed and to prevent further harassment. In addition, the letter will offer to provide Student A, at the University's expense, with counseling and other remedies, as appropriate, to address any emotional, psychological, academic, or employment issues she faced as a result of the University's delay in processing her complaint.

**REPORTING REQUIREMENTS:** By August 31, 2016, the University will provide documentation to OCR demonstrating its implementation of Action Item 16, including copies of the letter issued to Student A. By December 31, 2016, the University will submit to OCR copies of any responses received to the letters issued pursuant to Action Item 16, and documentation of any actions it took as a result.

17. In response to OCR's concerns regarding the University's handling of Student B's complaints on January and February 2012, the University will make efforts to locate the current address or e-mail address for Student B; and offer, in writing, to have the Title IX Coordinator to meet individually with Student B in person, via telephone, through correspondence, or through other means preferred by Student B regarding the University's handling of the investigation into her complaint allegations, if Student B elects to do so. The letter to Student B will acknowledge the University's deviation from its policies and procedures in effect at the time. The letter will explain that the University is revising its Title IX policies and procedures to ensure that complaints of sex discrimination, including sexual and gender-based harassment, assault and violence are timely processed, that complainants are kept informed of the status of the investigation and any appeals, and that complainants found to have been sexually harassed are timely provided with remedies such as no contact orders, housing changes, academic assistance, and counseling to ensure their needs are addressed and to prevent further harassment. In addition, the letter will invite Student B to contact the University's Title IX Coordinator to discuss any psychological, academic, or employment issues Student B faced as a result of the University's processing of her complaint, including discussion as to whether the University could provide Student B, at the University's expense, with an appropriate remedy, such as counseling or reimbursement for counseling, the opportunity to retake classes without penalty, cost or otherwise modify Student B's transcript, and other remedies, as appropriate.

**REPORTING REQUIREMENTS:** By August 31, 2016, the University will provide documentation to OCR demonstrating its implementation of Action Item 17, including copies of the letter issued to Student B. By December 31, 2016, the University will submit to OCR copies of any responses received to the letters issued pursuant to Action Item 17, and documentation of any actions it took as a result.

#### **GENERAL REQUIREMENTS**

If OCR has any objections to the documents, recommendations or other items required to be submitted for review and approval by OCR under this Agreement, OCR will notify the University in writing of its objections after receiving the draft documents.

The University understands that OCR will not close the monitoring of this Agreement until OCR determines that the University has fulfilled the terms of this Agreement and is in compliance with the regulation implementing Title IX, at 34 C.F.R. §§ 106.8, 106.9, and 106.31, which were at issue in this case.

The University understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, the University understands that during the monitoring of this Agreement, if necessary, OCR may visit the University, interview staff and students, and request such additional reports or data as are necessary for OCR to determine whether the University has fulfilled the terms of this Agreement and is in compliance with regulation implementing Title IX, at 34 C.F.R. §§ 106.8, 106.9, and 106.31, which were at issue in this case.

The University understands and acknowledges that OCR may initiate administrative enforcement or judicial proceedings to enforce the specific terms and obligations of this Agreement. Before initiating administrative enforcement (34 C.F.R. §§ 100.9, 100.10), or judicial proceedings to enforce this Agreement, OCR will give the University written notice of the alleged breach and sixty (60) calendar days to cure the alleged breach.

/s/

June 24, 2016

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President or Designee  
Minot State University

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Date

**Resolution Agreement-Appendix A**  
**Minot State University**  
**OCR Complaint # 05-14-2061**

Item 14 of the Resolution Agreement requires the University within 60 days of receipt of OCR's approval of the University's revised grievance procedures, and in accordance with its revised grievance procedures, to review the complaints and reports of sex discrimination (including sexual and gender-based harassment, assault and violence) made from academic year 2011-2012 through 2014-2015, including the files identified below, to determine whether the University investigated each complaint or report promptly and equitably.

1. October 9, 2012, report of sexual harassment;
2. February 27, 2013, report of sexual harassment;
3. November 26, 2013, reports of sexual harassment;
4. October 26, 2014, report of sexual harassment;
5. October 28, 2014, report of sexual harassment;
6. January 14, 2015, report of sexual harassment;
7. January 25, 2015, report of sexual assault;
8. February 2, 2015, report of sexual harassment;
9. February 26, 2015 report of sexual harassment; and
10. April 7, 2015, report of sexual assault.